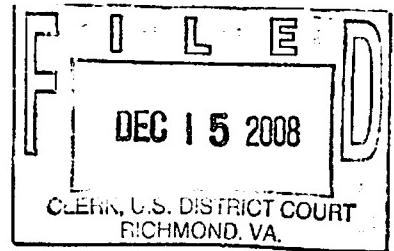


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division



ALAN H. ASHLEY,

Plaintiff,

v.

Civil Action No. 3:08cv815

THE PRUDENTIAL INSURANCE COMPANY OF AMERICA,
a New Jersey corporation

Defendant.

SERVE: CT Corporation System
Registered Agent
4701 Cox Road, Suite 301
Glen Allen, VA 23060-6802

COMPLAINT

Plaintiff, Alan H. Ashley, by counsel, for his Complaint against the defendant, The Prudential Insurance Company of America alleges as follows:

Nature of the Case

1. This action arises under the Employee Retirement Income Security Act of 1974 [29 U.S.C. §§ 1001 et seq.] (ERISA) and for a declaratory judgment to enforce the terms of the Pension Plan identified as the Prudential Merged Retirement Plan.

Parties

2. Plaintiff Alan H. Ashley ("Ashley") is a citizen of the United States and a resident of the State of Virginia. Plaintiff was an "employee" of The Prudential Insurance Company of America ("Prudential") within the meaning of 29 U.S.C. § 2611(2)(A) at all times when he was employed.

3. Ashley is a participant in the Prudential Merged Retirement Plan within the meaning of 29 U.S.C. § 1002(7) of ERISA, while employed by Prudential. Ashley was

employed by Prudential as an insurance agent from 1970 to 1990 when he became disabled, and continued on disability until 2004, when he retired with 33 years of dedicated service. (See Exhibits 1 and 2)

4. Defendant Prudential is a corporation qualified to do business in Virginia.

The Plans are administered by defendant within the venue of this Court.

Count I

5. Ashley realleges the allegations in paragraphs 1-4 as if stated herein:

6. Ashley was employed as an insurance agent by Prudential from 1970 to 1990, when he became disabled and continued on disability until June 4, 2004 (see Exhibit 1) when he retired (see Exhibit 2).

7. Ashley began receiving disability benefits under defendant under the terms of the disability plan.

8. Effective December 1, 2003, Ashley began receiving monthly pension benefits from the retirement plan which is a component of the Prudential Merged Retirement Plan.

9. On November 16, 2007, Ashley sent the attached letter to Prudential requesting a copy of his entire pension file. Ashley received no response to his request. (Exhibit 3)

10. On December 7, 2007, Ashley sent the attached letter to Prudential requesting his administrative record. Ashley received no response to his request. (Exhibit 4)

11. On February 4, 2008, Ashley received correspondence from Prudential indicating that his benefit amounts had been recalculated. (Exhibit 5)

12. On June 17, 2008, counsel for Ashley sent the attached letter to Prudential requesting Ashley's administrative record. Counsel received no response. (Exhibit 6)

13. On September 4, 2008, counsel for Ashley sent the attached letter to Prudential requesting the administrative record. Counsel received no response. (Exhibit 7)

Count II

Denial of Pension Benefits

14. Ashley realleges the allegations in paragraphs 1-13 as if stated herein and states that this count is being brought to determine his eligibility for pension service credits under the terms of the Prudential Merged Retirement Plan, and the amount of his benefits.

15. Ashley has requested a clarification of his pension benefits from Prudential, but Prudential has not provided Ashley with said information concerning the accrual of said pension service credits.

16. Ashley asks the Court to determine his continued rights to pension service credits under the terms of the above-referenced retirement plan.

Count II

Refusal to Provide Plan Documents

17. Ashley realleges the allegations in paragraphs 1-16 as if stated herein.

18. On November 16, 2007, Ashley sent the attached letter to Prudential. Ashley only received a copy of the summary plan document. He did not receive a copy of the Plan itself or a copy of the administrative record.

19. On November 16, 2007, Ashley sent written correspondence to Prudential requesting documentation concerning the Prudential Merged Retirement Plan in which he is a participant. (Exhibit 3)

20. On December 7, 2007, Ashley sent the attached letter to Prudential requesting his administrative record. Ashley received no response to his request. (Exhibit 4)

21. On February 4, 2008, Ashley received correspondence from Prudential indicating that his benefit amounts had been recalculated. (Exhibit 5)

22. On June 17, 2008, counsel for Ashley sent the attached letter to Prudential requesting Ashley's administrative record. Counsel received no response. (Exhibit 6)

23. On September 4, 2008, counsel for Ashley sent the attached letter to Prudential requesting the administrative record. Counsel received no response. (Exhibit 7)

24. As of the date of the filing of this lawsuit, Ashley has not received any response from Prudential and has not received the plan documents requested in his correspondence to Prudential.

25. The failure of Prudential to timely respond to a written request for plan documentation is a violation of ERISA, Section 104(b)(4) and is liable for monetary sanctions pursuant to ERISA Section 502(c)(1).

26. As a consequence, Prudential is liable to Ashley for statutory penalties of up to \$115.00 per day until the violation is remedied.

WHEREFORE, plaintiff prays that the Court grant him the following relief:

- A. Declare that Ashley is entitled to pension service credits as long as he remains out of work for a compensable disability.
- B. Find that Ashley be granted statutory penalties for Prudential's failure to provide him plan documents from the date of November 16, 2007 at a rate of \$115.00 per day for each violation.
- C. Ask that the amount of his pension benefits be accurately calculated.
- D. Find that the Court grant him whatever relief the Court deems just and proper.
- E. That the Court grant him attorney fees.

ALAN H. ASHLEY
By _____

Counsel

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